



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R04-OAR-2020-0515; FRL-8852-02-R4]

Air Plan Approval; North Carolina;

Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the North Carolina State Implementation Plan (SIP), submitted on July 16, 2020, by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources, Division of Air Quality (NCDAQ) for the purpose of allocating a portion of the available 2026 safety margin in the 2008 8-hour Ozone Maintenance Plan to the 2026 nitrogen oxides (NO_x) and volatile organic compounds (VOC) motor vehicle emissions budgets (“MVEBs” or “budgets”) for the North Carolina portion of the Charlotte-Rock Hill, NC-SC bi-state Area (hereinafter referred to as the “North Carolina portion of the Charlotte Maintenance Area”) to account for uncertainty associated with the mobile emissions model and unanticipated growth in vehicle miles traveled for the North Carolina portion of the Charlotte Maintenance Area. The revision also updates the 2026 MVEBs which are used for transportation conformity. NCDAQ’s July 16, 2020, submission supplements the revised 2008 8-hour Ozone Maintenance Plan submitted by NCDAQ on July 25, 2018, and approved by EPA on September 11, 2019. EPA is approving North Carolina’s July 16, 2020, supplemental SIP revision pursuant to the Clean Air Act (CAA or Act) and deeming the MVEBs adequate for transportation conformity purposes because the SIP meets all the statutory and regulatory requirements.

DATES: This rule is effective [Insert date 30 days after date of publication in the **FEDERAL REGISTER**].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0515. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dianna Myers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9207. Ms. Dianna Myers can also be reached via electronic mail at Myers.Dianna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving NCDAQ's July 16, 2020, SIP revision allocating a portion of the available safety margin to revise the 2026 NO_x and VOC budgets for the North Carolina portion of Charlotte 2008 8-hour Ozone Maintenance Area for transportation conformity purposes. NCDAQ requested approval of the July 16, 2020, SIP revision in order to account for unanticipated changes in the travel demand model, such as unanticipated growth in vehicle miles

traveled, changes and uncertainty in vehicle mix assumptions, and uncertainty associated with mobile emissions modeling.

Upon approval, the revised 2026 budgets from NCDAQ's July 16, 2020, SIP revision will replace the existing budgets in the State's 2008 8-hour Ozone Maintenance Plan revision approved on September 11, 2019. *See* 84 FR 47889. These newly revised NO_x and VOC 2026 budgets must be used in future transportation conformity analyses for the Area according to the transportation conformity rule. *See* 40 CFR 93.118. Also, all emissions inventories (on-road, point, area, and nonroad) from NCDAQ's September 11, 2019, SIP revision remain the same. This action only approves the allocation of a portion of the available safety margin to the 2026 NO_x and VOC MVEBs. EPA is approving North Carolina's July 16, 2020, SIP revision because it continues to demonstrate maintenance for the Charlotte Maintenance Area.

II. Background

Effective July 20, 2012, EPA designated the Charlotte-Rock Hill, NC-SC Area as Marginal nonattainment for the 2008 8-hour ozone national ambient air quality standard (hereinafter referred to as NAAQS or standard). The North Carolina portion of the Charlotte 2008 Maintenance Area includes Mecklenburg in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan, and Union counties. The Charlotte Maintenance Area also includes a portion of York County located in Rock Hill, South Carolina. *See* 77 FR 30088. The North Carolina portion of the Charlotte Maintenance Area is comprised of three metropolitan planning organizations (MPOs): the Charlotte Regional Transportation Planning Organization (CRTPO) which covers Iredell, Mecklenburg, and Union counties; the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) which covers Cabarrus and Rowan counties; and the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO) which covers Gaston, Cleveland, and Lincoln counties. Although Cleveland County is included in the GCLMPO planning boundary, it was not included in the North Carolina portion of the Charlotte Maintenance Area. Each MPO has its own budget referred to as a "sub-area budget or sub-area

MVEBs.” The York County, South Carolina portion of this maintenance area has a separate MPO and budgets. The South Carolina portion of the maintenance area implements transportation conformity independent of the North Carolina portion.

EPA originally approved NCDAQ’s 2008 8-hour ozone redesignation request and maintenance SIP for the North Carolina portion of the Charlotte Maintenance Area on July 28, 2015 (80 FR 44873), with base year NO_x and VOC actual emissions inventories for 2014; projected, future, interim year inventories for 2015, 2018, and 2022; and projected final year emission inventory for 2026. On August 17, 2015 (80 FR 49164), EPA approved North Carolina’s section 110(l) noninterference demonstration requesting relaxation of the Federal Reid Vapor Pressure from 7.8 pounds per square inch (psi) to 9.0 psi and a revision to the 2026 NO_x and VOC sub-area MVEBs for Mecklenburg and Gaston Counties only. *See* 80 FR 44868.

On September 11, 2019 (84 FR 47889), EPA approved NCDAQ’s July 25, 2018, SIP revision related to North Carolina’s I/M Program. The September 11, 2019, SIP approval updated the on-road mobile source inventory and revised the 2026 sub-area VOC and NO_x budgets; these remain the current SIP-approved MVEBs and inventories. The revised 2026 MVEBs became effective on October 11, 2019.

EPA’s analysis of North Carolina’s July 16, 2020, SIP submittal indicates that maintenance will continue to be demonstrated for the Charlotte Maintenance Area after allocation of a portion of the safety margin to the 2026 MVEBs because the total level of emissions from all source categories remains equal to or less than the attainment level of emissions.

In a notice of proposed rulemaking (NPRM), published in the *Federal Register* on June 23, 2021 (86 FR 32850), EPA proposed to approve the July 16, 2020, SIP revision. The details of North Carolina’s submittal and the rationale for EPA’s action are further explained in the NPRM. Comments on the June 23, 2021, NPRM were due on or before July 23, 2021. EPA did not receive any comments.

Tables 1 through 3, below, provide the newly revised 2026 NO_x and VOC sub-area MVEBs with the new safety margin¹ allocations in kilograms per day (kg/day) for transportation conformity purposes (2014 is only shown for illustration because no changes are being made to the MVEBs for that year).

Table 1. Cabarrus Rowan Metropolitan Planning Organization (CRMPO) MVEBs in 2014 and 2026 (kg/day)*				
	2014 NO_x	2014 VOC	2026 NO_x	2026 VOC
Base On-road Emissions	11,814	7,173	3,381	3,371
Safety margin allocated to MVEB	-	-	1,522	1,517
Conformity MVEB	11,814	7,173	4,903	4,888

*Includes the portion of Cabarrus and Rowan Counties in the maintenance area.

Table 2. Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO) MVEBs in 2014 and 2026 (kg/day)*				
	2014 NO_x	2014 VOC	2026 NO_x	2026 VOC
Base On-road Emissions	10,079	5,916	2,681	2,468
Safety margin allocated to MVEB	-	-	1,087	1,004
Conformity MVEB	10,079	5,916	3,768	3,472

*Includes the portion of Gaston and Lincoln counties in the maintenance area. Although Cleveland County is included in the MPO, it is not included in the Charlotte ozone maintenance area

Table 3. Charlotte Regional Transportation Planning Organization (CRTPO) – Rocky River Rural Planning Organization (RRRPO) MVEBs in 2014 and 2026 (kg/day)*				
	2014 NO_x	2014 VOC	2026 NO_x	2026 VOC
Base On-road Emissions	32,679	18,038	8,870	8,655
Safety margin allocated to MVEB	-	-	3,371	3,288
Conformity MVEB	32,679	18,038	12,241	11,943

*Includes all of Mecklenburg County and a portion of Iredell and Union Counties in the maintenance area.

The remaining safety margin after the allocation to the 2026 MVEBs is 63.31 tons per day (tons/day) and 13.73 tons/day for NO_x and VOC, respectively is provided below in Table 4.

¹ A safety margin is the difference between the attainment level of emissions from all source categories (i.e., point, area, on-road, and nonroad) and the projected level of emissions in the maintenance year from all source categories.

Table 4. New Safety Margins for the North Carolina Portion of the Charlotte Maintenance Area		
Year	NO_x (tons/day)	VOC (tons/day)
2014	N/A	N/A
2015	-5.99	-2.03
2018	-45.49	-13.30
2022	-63.74	-15.84
2026	-63.31	-10.73

III. Final Action

EPA has evaluated North Carolina’s submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

Therefore, EPA is approving NCDAQ’s July 16, 2020 SIP revision requesting to revise the Charlotte 2008 8-hr Ozone Maintenance Plan in order to allocate a portion of the available safety margin to the 2026 NO_x and VOC MVEBs. The revised MVEBs ensure continued attainment of the 2008 8-hour ozone NAAQS through the maintenance year 2026. In addition, EPA is deeming the MVEBs adequate for transportation conformity purposes because the budgets meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4). Within 24 months from the effective date of this approval, the transportation partners are required to demonstrate conformity to the revised NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. This action merely approves state law as meeting

Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after the date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 18, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In section 52.1770 in paragraph (e) amend the table by adding a new entry for “MVEB Revision to the 2008 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

§52.1770 Identification of plan.

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EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
**	**	*	*	*
MVEB Revision to the 2008 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area	7/16/2020	[Insert date of publication in FEDERAL REGISTER]	[Insert citation of publication]	

[FR Doc. 2021-18247 Filed: 8/24/2021 8:45 am; Publication Date: 8/25/2021]